

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DISTRICT
CIVIL ACTION NO.:

)

STARR INDEMNITY & LIABILITY COMPANY,)
INC. a/s/o Amick Farms, LLC, and AMICK FARMS,) 3:24-cv-1657-SAL
LLC,)
)

Plaintiffs,) **COMPLAINT**
)

- v. -) JURY TRIAL DEMANDED
)

CSX TRANSPORTATION, INC.,)
)

Defendant.)
)

Plaintiffs, Starr Indemnity & Liability Company, Inc. (“Starr”) and Amick Farms, LLC (“Amick Farms”), by and through their undersigned attorneys, allege – upon information and belief – as follows:

INTRODUCTION

1. This is an action for breach of contract of interstate rail carriage arising from damage to 4,083 cases of frozen chicken thighs (“Cargo”) owned by Amick Farms, insured by Starr, and tendered to CSX Transportation, Inc. (“CSX”) for interstate rail carriage from Sumter, South Carolina to Woodburn, Oregon.

PARTIES

2. Amick Farms was and is a Delaware limited liability company with an office for the transaction of business at 7155 Batesburg Highway, Batesburg, South Carolina 29006.

3. Amick Farms owned the Cargo.

4. At all times material, Starr was a corporation organized under the laws of the State of Texas, with an office and place of business located at 399 Park Avenue, 2nd Floor, New York, New York 10022.

5. Starr insured the Cargo, paid Amick Farms's losses resulting from the incident detailed herein (less Amick's deductible), and is thereby subrogated to Amick Farms's rights to the extent of that payment.

6. Amick Farms retains losses resulting from the incident detailed herein in the amount of its deductible.

7. Amick Farms and Starr bring this action on their own behalves and as agents or trustees on behalf of all having an interest in the subject shipment.

8. CSX was and is a Virginia corporation with an office for the transaction of business at 500 Water Street, Jacksonville, Florida 33202.

9. CSX was and is registered with the United States Department of Transportation as an interstate carrier with U.S.D.O.T. number 29619.

10. CSX is the interstate rail carrier that transported the Cargo under Bill of Lading No. OR-49435 ("Bill of Lading").

11. CSX maintains shipping routes through 23 states, including the state of South Carolina.

JURISDICTION & VENUE

12. This action involves interstate transportation of goods by rail carrier. This Honorable Court has jurisdiction and venue is proper pursuant to 49 U.S.C. § 11706(d) (the "Carmack Amendment") and 28 U.S.C. § 1331.

BACKGROUND

13. In or around July 2022, Amick Farms sold the Cargo to non-party, Cascade Meats, Inc. ("Cascade"), which is located in Woodburn, Oregon.

14. Amick Farms hired CSX to transport the Cargo from its facility in Sumter, South Carolina to the warehouse of non-party, JLR Warehouse LLC, located in Woodburn, Oregon.

15. On 5 July 2022, CSX, in consideration of certain agreed freight charges, picked up, received, and accepted the Cargo, then in good order and frozen condition, at Amick Farms's facility in Sumter, South Carolina, issued or accepted the Bill of Lading to cover the subject shipment, and agreed to carry the Cargo – in subfreezing temperatures – to Woodburn, Oregon.

16. On or about 7 July 2022, the rail car loaded with the Cargo was mislabeled as empty and returned to Waycross, Georgia.

17. Upon its arrival in Waycross, Georgia, on or about 9 August 2022, said rail car was redirected for delivery to Woodburn, Oregon.

18. Upon its delivery in Woodburn, Oregon, on 5 September 2022, Cascade rejected the Cargo due to a strong smell coming from said rail car.

19. Temperature records indicate that the rail car experienced multiple periods of mechanical failure during transit resulting in the Cargo enduring extended temperature excursions above freezing in contravention of the terms of the Bill of Lading, of other documents controlling the terms applicable to the shipment of the subject Cargo, and of CSX's obligations as a interstate carrier of goods by rail under the Carmack Amendment.

20. Due to the mandates of the U.S. Food and Drug Administration, Amick Farms was required to destroy the Cargo.

21. The Cargo was, therefore, deemed a total loss and destroyed.

22. As a result, Amick Farms suffered losses totaling \$421,516.04, as nearly as can now be determined.

23. Amick Farms submitted a claim to Starr for its losses, and Starr paid Amick Farms \$411,516.04 (\$421,516.04 less Amick Farms's \$10,000 deductible) to settle the claim.

24. Starr thereby became subrogated Amick Farms's rights to the extent of that payment.

25. Amick Farms retains uninsured losses in the amount of its \$10,000 deductible.

CAUSE OF ACTION – BREACH OF CONTRACT OF CARRIAGE

26. Paragraphs 1 through 25 are incorporated by reference as though fully set forth at length herein.

27. As an interstate rail carrier of goods for hire, CSX was obligated by the Carmack Amendment, the terms of the Bill of Lading, and other documents controlling the terms applicable to the shipment of the subject Cargo to properly and safely transport, handle, carry, keep, care for, discharge, and deliver the Cargo in the same good order and condition as when received by it.

28. CSX breached those duties by failing to deliver the Cargo in the same good order and condition as when received by it.

29. As a direct and proximate cause of CSX's breach of its duties under the Carmack Amendment, the terms of the Bill of Lading, and the other documents controlling the terms applicable to the shipment of the subject Cargo, Plaintiffs sustained damages, as nearly can now be determined, no part of which has been paid although duly demanded, in the sum of \$421,516.04.

WHEREFORE, Plaintiffs demand judgment in their favor and against Defendants in the sum of \$421,516.04, plus interest, costs, disbursements, and such other and further relief as this Court may deem just and proper.

JURY TRIAL DEMAND

Plaintiffs hereby demand a jury trial on all issues so triable.

PORTER & QUINN, LLC

s/Charles F. Moore

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